



1313 North Market Street
P.O. Box 951
Wilmington, DE 19899-0951
302 984 6000

www.potteranderson.com

Richard L. Horwitz
Partner
Attorney at Law
rhorwitz@potteranderson.com
302 984-6027 Direct Phone
302 658-1192 Fax

May 23, 2008

VIA ELECTRONIC FILING

The Honorable Joseph J. Farnan, Jr.
United States District Court
844 North King Street
Wilmington, DE 19801

Re: ICU Medical, Inc. v. Rymed Technologies, Inc.
C.A. No. 07-468-JJF

Dear Judge Farnan:

As a follow up to the letter we submitted yesterday, ICU submits a copy of the Order Granting in Part ICU's Motion to Dismiss and Denying ICU's Application to Transfer, which issued yesterday from the Central District of California. Under this Order, RyMed's declaratory patent claims are dismissed from the California action and will proceed in this Delaware action. RyMed's non-patent claims will proceed separately in the Central District of California.

As a result of the California Order, even under RyMed's position, there is now no reason why the parties cannot move forward with a scheduling conference at the Court's earliest convenience.

Respectfully,
/s/ Richard L. Horwitz
Richard L. Horwitz

RLH/nmt
866043 / 32116
Enclosure

cc: Clerk of the Court (via hand delivery)
Counsel of Record (via electronic mail)

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3 UNITED STATES DISTRICT COURT
4 CENTRAL DISTRICT OF CALIFORNIA
5

6 RYMED TECHNOLOGIES, INC.,

7 Plaintiff,

8 v.

9 ICU MEDICAL, INC.,

10 Defendant.

Case No. ^{SA}CV 07-1199 (MRP (VBKx))

ORDER (1) GRANTING IN PART
ICU MEDICAL, INC.'S MOTION
TO DISMISS; AND (2) DENYING
ICU MEDICAL, INC.'S
APPLICATION TO TRANSFER
VENUE PURSUANT TO 28 U.S.C. §
1404(a).

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12 In a May 8, 2008 telephone conference, the Court and counsel discussed the possibility of
13 transferring this case, in whole or in part, to the District of Delaware, where a "first-filed" action
14 involving related patent claims is proceeding. At the time, the Court indicated that it was
15 inclined to transfer the whole case to the District of Delaware.

16 After carefully reviewing all papers submitted by the parties again, however, the Court
17 deems it appropriate to retain the unfair competition claims in Ryemed's Complaint (Counts 13-
18 21) for adjudication here. Thus, the Court, in its discretion, denies ICU Medical, Inc.'s
19 Application to Transfer Venue Pursuant to 28 U.S.C. § 1404(a). See 28 U.S.C. § 1404(a);
20 *Commodity Futures Trading Com. V. Savage*, 611 F.2d 270, 279 (9th Cir. 1979).

21 Because Counts 1-12 of Ryemed's Complaint assert patent claims substantially related to
22 those proceeding in the District of Delaware, the Court grants ICU's Motion to Dismiss with
23 respect to those counts in favor of the first-filed case in Delaware. See *Elects. For Imaging, Inc.*
24 *v. Coyle*, 394 F.3d 1341, 1347 (Fed. Cir. 2005).

25 IT IS SO ORDERED.

26
27 DATED: May 21, 2008

Mariana R. Pfaelzer
Hon. Mariana R. Pfaelzer
United States District Judge